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10/711,373	09/14/2004	Michael J. Weiss	FIS920040048US1	5372

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LAW OFFICE OF DELIO & PETERSON, LLC.  
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EXAMINER
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LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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10/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/711,373

Applicant(s)

WEISS ET AL.

Examiner

Edward F. Landrum

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 and 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 4 and 5 are objected to because of the following informalities: Amended claim 4 states that a tapered tip setscrew contacts that at least one blade. The setscrew never contacts the blade but instead contacts a flexing wedge (40) that contacts the blade. Furthermore, there is only a single taper tipped setscrew in the elected embodiment and there is only a single screw hole for said taper tipped set screw. Claim 5 still states the use of multiple taper tipped set screws. Lastly, are the newly defined taper tipped set screws of claim 5 different than the taper tipped set screw described in claim 4? Examiner recommends rewriting claims 4 and 5 to more accurately describe the invention.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (U.S. Patent No. 2,604,132).

Peterson teaches (see Figures 1-4) an apparatus capable of making a cut in an elongated strip of material. The apparatus comprises an upper cutter portion with a blade retaining plate (13). At least one blade (35) is retained on the upper cutter portion. The upper cutter portion is in slideably movable contact with a lower cutter

portion (5). Retaining springs (26) act on and separate the upper and lower cutter portions. A stripper (41 and 42) is located above a cutter base plate/material cradle (5 and 50). The stripper aids in keeping the material being cut in place during cutting (Col. 4, lines 1-30). Set screws (32), secure the blade to the frame (13) of the upper cutter portion. Holes (20) in the lower cutter portion are used to mounting the apparatus to a press (24).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford et al (U.S Patent No. 6,546,833), hereinafter Gifford, in view of Milich (U.S Patent No. 6,003,421), in further view of Scott (U.S Patent No. 3,720,125), and in further view of Raney et al (U.S Patent No. 6,871,571), hereinafter Raney.

Gifford teaches (see Figures 1-3) a cutter having an upper portion (25) with a blade retaining plate (78) for retaining at least one blade (80). The upper portion (25) is in sliding contact with a lower cutter portion (23). Retaining springs (60) act on and separate the two cutter portions. Furthermore, Gifford teaches that any shape die can be used with the apparatus depending on the cut needing to be made (Col. 6, lines 32-37).

Gifford teaches all of the elements of the current invention as stated above except multiple mounting screws to pressably securing the at least one blade in the blade retaining plate, providing a stripper to aid in keeping the material being cut in place, and providing screw holes in the lower cutter portion as well as screws for securing the lower cutter portion to a press.

Milich teaches (see Figure 1) that it is old and well known to provide multiple setscrews (24) to securely mount a blade (12) to a blade retaining member (14).

It would have been obvious to have modified Gifford to incorporate the teachings of Milich to provide multiple setscrews blade retaining plate to hold the blades in place. Doing so would create a quick release mechanism for the blade retaining plate allowing a user to quickly and easily change between different blades in order to make different cuts. The setscrews would also further help prevent the blade from shifting up and down in the blade retaining plate.

Scott teaches (see abstract) that it is old and well known to provide a stripper member above a lower cutter portion on a punching machine to prevent upward movement of the work piece on the blade's return stroke thereby aiding the workpiece in keeping its shape.

It would have been obvious to have modified Gifford to incorporate the teachings of Scott to provide a stripper for the cutting machine. The stripper would prevent the work piece from traveling with the cutter on the cutter's return stroke thereby eliminating the need for a user to remove the work piece from the cutter manually.

Raney teaches (see Figure 6) attaching a lower cutting portion (74) to a lower support member (72) via bolts (74b).

It would have been obvious to have modified Gifford to incorporate the teachings of Raney to attach the lower cutter portion to a lower supporting member such as a press. Doing so would aid in preventing the lower cutter portion from moving in an unwanted direction during cutting.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Gifford in view of Strobel et al (U.S Patent No. 6,170,376), hereinafter Strobel.

Gifford teaches all of the elements of the current invention as stated above except the blade retaining member having an L-shaped slot for securing the blade and the blade comprising a short blade and a long blade.

Strobel teaches (see Figures 1-6) a blade retaining member (12) having an L-shaped slot (16) for holding cutting blades arranged in an L-shape capable of performing end cutting. Furthermore, Strobel teaches (Col. 4, lines (17-22)) that the slots in the board and the blades can be arranged in a pattern corresponding to the shape of the blank to be cut.

It would have been obvious to have modified the modified device of Gifford to incorporate the teachings of Strobel to provide an L-shaped slot in the blade retaining member and arrange the blades correspondingly. Doing so would have allowed a user to accurately and effectively complete a cut with the cutting apparatus that required an L-shape.

It would have been an obvious matter of design choice to a person of ordinary skill in the art to arrange the slots in the blade retainer and the blades so that there was a long blade and a short blade because discovering the optimal length of each blade for a particular cut would have been a mere design consideration based on the length and width of the material being cut as well as the length and width of the desired product. Such a modification would have involved only routine skill in the art to accommodate the various work piece and final product requirements. It has been held that when the general conditions of a claim are met, discovering the optimal or workable ranges only involves routine skill in the art.

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Gifford, as stated in section 6.

It would have been an obvious matter of design choice to modify the modified device of Gifford by using a taper tipped setscrew to hold a blade in place, since applicant has not disclosed that having a specific type of screw solves any stated problem or is for any particular purpose and it appears any suitable clamping means would perform just as well in clamping the blade to the blade retaining plate.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-6 and 10 have been considered but are moot in view of the new ground(s) of rejection.

The blade retaining means of Gifford is represented by numeral 78. The blade, a die is a blade, is represented by numeral 80. The blade retaining plate 78 holds the blade 80. Furthermore, the blade of Gifford is capable of cutting gasket material.

Furthermore, the device of Gifford need only be capable of cutting an elongated strip of material. An elongated strip of material could be of any thickness. Furthermore, applicant is arguing portions of the specification in relating to the rejection instead of portions of the claimed subject matter. Lastly the blade retaining means of Smithwick can be interpreted as a setscrew as it is externally threaded and performs a function while in a set position. Smithwick shows that it is old and well known to provide threaded clamping means in a die board to clamp a metal die in place.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smithwick (U.S Patent No. 6,209,436), Svendsen et al (U.S Patent No. 3,464,293), Sarka et al (U.S Patent No. 3,863,550), Saunders (U.S Patent No. 3,383,969), Kammann (U.S Patent No. 5,535,655), Holliday (U.S Patent No. 5,197,367), Heiting (U.S Patent No. 4,030,390), and Carll (U.S Patent No. 2,131,801) teach elements of the current invention.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EFL  
10/14/2007



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